

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 15, 2007

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No. 06-40326  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MIGUEL ANGEL CHICA-CHACON, also known as Miguel Angel Chacon

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:05-CR-725

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Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Miguel Angel Chica-Chacon appeals the 57-month sentence imposed following his guilty plea to illegally reentering the United States following previous deportation. Chica-Chacon argues that the district court erred in applying the sentence enhancement under U.S.S.G. § 2L1.2 because his prior Texas convictions for aggravated assault do not qualify as crimes of violence. In

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

light of our recent decision in *United States v. Guillen-Alvarez*, 489 F.3d 197, 199-201 (5th Cir. 2007), Chica-Chacon's argument is unavailing.

In light of *Apprendi v. New Jersey*, 530 U.S. 466 (2000), Chica-Chacon challenges the constitutionality of 8 U.S.C. § 1326(b)'s treatment of prior felony and aggravated felony convictions as sentencing factors rather than elements of the offense that must be found by a jury. This court has held that this issue is "fully foreclosed from further debate." *United States v. Pineda-Arrellano*, 492 F.3d 624, 625 (5th Cir. 2007), petition for cert. filed (Aug. 28, 2007) (No. 07-6202).

AFFIRMED.